

**2009 ABMEI NEGOTIATIONS  
CITY PACKAGE PROPOSAL C\***

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**PERIOD OF MEMORANDUM OF AGREEMENT – ARTICLE 1**

Term: Eleven (11) Months

**PAY**

Effective the first payperiod of Fiscal Year 2010-2011, all classifications represented by ABMEI will have each step reduced by 5%. This will result in the top and bottom step of all classifications represented by ABMEI being 5% lower.

**HEALTH INSURANCE COST SHARING**

As Proposed in City Initial Package Proposal dated December 7, 2009

**HEALTH INSURANCE DUAL COVERAGE**

As Proposed in City Initial Package Proposal dated December 7, 2009

**HEALTH INSURANCE- HEALTH IN LIEU**

As Proposed in City Initial Package Proposal dated December 7, 2009

**RELEASE TIME**

As Proposed in City Package Proposal B

**PROBATIONARY PERIODS**

As Proposed in City Initial Package Proposal dated December 7, 2009

**DISABILITY LEAVE SUPPLEMENT**

See Attached (City Proposal #19)

**FREEZING STEP INCREASES**

As Proposed in City Initial Package Proposal dated December 7, 2009

**RETIREMENT COST MITIGATION**

As Proposed in City Initial Package Proposal dated December 7, 2009

**OVERTIME- 40 HOURS**

As Proposed in City Initial Package Proposal dated December 7, 2009

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**OFF HOURS INSPECTIONS**

See Attached (City Proposal #4)

**SICK LEAVE PAYOUT**

See Attached (City Proposal #13)

**SIDE LETTERS**

The following side letters will expire upon ratification by the ABMEI membership and approval by the City Council:

1. Training
2. Disciplinary Appeals Pilot Program
3. Dispatcher Assignment

**ALL TENTATIVE AGREEMENTS**

*\* This proposal is submitted in an attempt to reach a settlement. In the event the proposal is not accepted, the City reserves the right to modify, amend and/or add proposals, including, but not limited to:*

- Revise step structure and modify movement within steps
- Compensatory Time Clarification
- Retiree Pension Benefits
- Calculation and Eligibility of Overtime- Paid Time Off
- Healthcare- Modifications to HMO Plan Design

**CITY PROPOSAL #19- DISABILITY LEAVE SUPPLEMENT**

ARTICLE 19 DISABILITY LEAVE

- 19.1 Disability Leave. Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary.
- 19.2 Eligibility for Disability Leave Supplement. A full-time employee required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division I or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in section 19.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.
- 19.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in 19.6.
- 19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability. If the Worker's Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.
- 19.4 Ineligible Causes for Disability Leave. An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from an act of gross negligence of such employee and/or any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.
- 19.5 Ineligibility if Offer and Decline of Temporary Modified Duty. ~~DLS shall not be provided~~ An employee shall be voluntarily separated from City service if the City offers the employee temporary modified duty employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which the employee is physically qualified.
- 19.6 Maximum Term of Disability Leave Supplement. The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which the employee is disabled for one of the following time periods, whichever is shortest:
1. The time the employee is medically required to be absent due to a work-related injury or illness, after the required 3-day waiting period.
  2. The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.

3. ~~Nine-Six (96)~~ calendar months (~~274 days or 1560~~ 1040 hours if not continually absent) following the date of injury.

19.6.1 Time Limit for DLS Eligibility. After ~~1560~~ 1040 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS 5 years after the date of the onset of the injury or illness for which the employee is claiming DLS.

- 19.7 Disability Leave Supplement is in Lieu of Regular Compensation. Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.
- 19.8 Requirement of Evidence Proving Temporary Disability. The Director of Human Resources, or designee, is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director, or designee. The Director, or designee, may require the employee to submit to a medical examination by a physician selected by the City.
- 19.9 Termination of Disability Leave. An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of Sick Leave as provided in Article 18.1.3.1, and of accrued vacation, and compensatory time off, with Workers' Compensation may be considered to have separated from City service.
- 19.9.1 An employee who exhausts all Disability Leave shall be notified that they are subject to the above provision upon expiration of all remaining paid leave.

**CITY PROPOSAL #4- SCHEDULED OFF-HOURS INSPECTIONS**

5.13 Scheduled Off-Hours Inspections

An employee who is scheduled to perform one or more inspection(s) outside of, and not contiguous with, his/her regularly scheduled shift, shall be compensated for performing such inspection(s) at the rate of ~~four~~ three (43) hours or for the time actually worked, to the nearest ~~half-hour~~ fifteen minutes, whichever is greater. When an employee takes a City vehicle to the off-hours inspection, time worked shall be computed from the time the employee picks up the City vehicle until they return the City vehicle to the parking facility, upon completion of the scheduled off-hours inspection. Such compensation shall be at the appropriate rate.

**CITY PROPOSAL #13- SICK LEAVE PAYOUT**

18.2 Sick leave payoff shall be given to each full-time employee at the time of retirement or death under one of the following conditions:

18.2.1 Federated Retirement Plan:

The employee is:

18.2.1.1 A member of the Federated Retirement Plan, and

18.2.1.2 Retired under the provisions cited in the plan, and

18.2.1.3 Credited with at least fifteen (15) years of service in this retirement plan, or

18.2.1.4 Credited with at least ten (10) years of service prior to a disability retirement.

~~18.2.2 Terminated Employee with Vesting Rights~~

~~The employee has:~~

~~18.2.2.1 Terminated service with the City, and~~

~~18.2.2.2 Retained vesting rights in a retirement system according to provisions in the SJMC, and~~

~~18.2.2.3 Following such termination, qualifies for retirement and retires under the provisions cited in the code and~~

~~18.2.2.4 Has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.~~

18.2.3 Death During Service

The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least fifteen (15) years of service in any applicable retirement plan.

~~18.2.4 Death of Terminated Employee~~

~~The estate of any full time employee who:~~

~~18.2.4.1 Had terminated service with the City but had retained vesting rights in a retirement system according to provisions in the SJMC, and~~

~~18.2.4.2 Dies prior to becoming eligible for retirement allowances as cited under provisions of the SJMC, and~~

~~18.2.4.3 Has at the time of death credit for at least fifteen (15) years of service in the~~

~~applicable retirement plan.~~

18.3 Payout shall be determined as follows:

18.3.1 If an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement, termination or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death.

18.3.2 Less than 400 hours: Hours accumulated x 50% of final hourly rate

400 - 799 ~~1200~~ hours: Hours accumulated x 60% of final hourly rate

800 ~~1200~~ hours: ~~Hours accumulated x 75% of final hourly rate~~

18.4 For Employees hired by the City on or after July 1, 2010, the following shall be the sick leave payoff benefit:

18.4.1 0 – 750 hours: Hours accumulated x 25% of final hourly rate

18.5 Employees are only eligible for one sick leave payoff while employed by the City of San Jose, including breaks in employment.